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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/506,996	09/09/2004	Kenneth A. Swanstrom	92	8904

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GREGORY J. GORE
70 WEST OAKLAND AVENUE, SUITE 316
DOYLESTOWN, PA 18901

EXAMINER

WUJCIAK, ALFRED J

ART UNIT	PAPER NUMBER
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3632

DATE MAILED: 04/25/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/506,996

Applicant(s)

SWANSTROM ET AL.

Examiner

Alfred Joseph Wujciak III

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 06 February 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-15 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-15 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 09 September 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>2/23/05</u> . | 6) <input type="checkbox"/> Other: _____ |

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DETAILED ACTION

This is the final Office Action for the serial number 10/506,996, SHEET METAL CABLE HOOK, filed on 9/9/04.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1-8 and 14-15 are rejected under 35 U.S.C. 102(e) as being anticipated by US

Patent # 6,561,471 to Hawie.

Hawie teaches a hook having self-clinching attachment means (22-23) comprising a rectangular base (13) including panel attachment means (18) located on opposing front and rear side surface. The hook includes a hook portion (13) extending upwardly from the base including upper (13B) and lower (13C) jaws forming a substantially circular C-shaped hook with a frontal opening (19) of substantially less than 180 degrees measured from an axis of the hook. The opening is located between spaced ends of the jaws. The hook includes a single laterally extending notch (30) on the inside surface of the upper jaw proximate the frontal opening. The jaws have a continuous arcuate inside surface except for the notch. The base includes orientation marks (16) on the bottom planar surface thereof proximate the front side. The panel attachment

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means are deformer undercut groove (16). The hook includes an insert (33) on the inside surface of the jaws. The insert includes pivotable flap (21).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 9-10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hawie in view of US Patent # 4,897,952 to Hawie.

Hawie teaches the catch (21) but fails to teach the device includes a spring-biased catch that covers the frontal opening. Furthermore, Hawie teaches the catch having two opposing ears but fails to teach the ears engage the cooperating recesses on opposite sides of the lower jaw. Hawie' 952 teaches the device with spring biased catch (72) and catch with two opposing ears (62, figure 6) that engage the cooperating recesses on opposite sides of the lower jaw. It would have been obvious for one of ordinary skill in the art at the time the invention was made added the spring-biased to Hawie's catch and opposing ears engaging the cooperating recesses on the lower jaw as taught by Hawie'952 to provide assistance for inserting the catch into the notch to close the opening of the device.

Allowable Subject Matter

Claims 11-13 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

The prior art fails to teach the insert includes a tail portion, which is free to slide against the inside surface of the lower jaw to provide a spring force to close the catch.

Response to Arguments

Applicant's arguments filed 2/6/06 have been fully considered but they are not persuasive.

In response to applicant's argument that the examiner's conclusion of obviousness is based upon improper hindsight reasoning, it must be recognized that any judgment on obviousness is in a sense necessarily a reconstruction based upon hindsight reasoning. But so long as it takes into account only knowledge which was within the level of ordinary skill at the time the claimed invention was made, and does not include knowledge gleaned only from the applicant's disclosure, such a reconstruction is proper. See *In re McLaughlin*, 443 F.2d 1392, 170 USPQ 209 (CCPA 1971).

The applicant argues that Hawie fails to teach attachment structures. The examiner disagrees with the applicant because Hawie clearly show attachment structures (16, 18) for mounting the base (13) on an object/device/wall, etc. If Hawie fails to teach attachment

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structures, then there will be no way for the base to mounted on a supporting surface as cited in specification (column 3, line 8).

The applicant argues that Hawie fails to teach “single laterally extending notch on the inside surface of the upper jaw proximate the frontal opening.” The examiner disagrees with the applicant because in figures 9 and 11 of Hawie’s invention shows notch (30 and 13d) with lip for the catch to be secured therein. The notch is located in between and below the elements 13E and 13F of the hook portion. Therefore, Hawie teaches the single laterally extending notch.

The applicant argues that Hawie fails to teach orientation marks, deformer undercut grooves, an insert, pivotable flap, unitary flap and pivot for catch including two ears and insert being a continuous cylinder. All of the elements of Hawie can be found in the office action. Hawie teaches the orientation marks located in the rectangular base holes and that the holes provide mark on the base for nailing or screwing the base on an object. Figure 9 shows countersink holes (16-17), which are considered as “undercut grooves”. The catch is being pivoted by a hinge pin as show in figures 7 and 9.

In response to applicant's argument that there is no suggestion to combine the references, the examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. See *In re Fine*, 837 F.2d 1071, 5

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USPQ2d 1596 (Fed. Cir. 1988) and *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992).

In this case, Hawie '471 and '952 teach clamp structure having two jaws, rectangle base and catch for securing a tubular object mounted on wall or ceiling. They are identical inventions except '471 fails to teach spring biased catch while '952 discloses spring biased catch and that it is an obvious to have modified '471 with spring biased catch to provide convenience for opening and closing the catch.

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Alfred Joseph Wujciak III whose telephone number is (571) 272-6827. The examiner can normally be reached on 8am-4:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Robert Olszewski can be reached on (571) 272-6815. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Alfred Joseph Wujciak III
Examiner
Art Unit 3632

4/24/06

